

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 256.7(5), the Department of Education hereby gives Notice of Intended Action to amend Chapter 98, “Financial Management of Categorical Funding,” Iowa Administrative Code.

Chapter 98 outlines the financial management of categorical funding. The proposed amendments to Chapter 98 reflect legislative changes impacting the following: the statewide voluntary four-year-old preschool program, at-risk formula weighting, the returning dropout and dropout prevention program, the management fund, and the physical plant and equipment levy (PPEL) fund. A more detailed explanation of these amendments follows:

Item 1: 2015 Iowa Acts, House File 658, amends Iowa Code section 256C.4 to expand the permissive uses of the administrative funds from preschool foundation aid received by a school district. This amendment provides for these additional allowable uses.

Item 2: This amendment removes an incorrect reference to Chapter 41, which does not deal with special education weighting.

Items 3 and 4: 2015 Iowa Acts, House File 658, amends Iowa Code sections 257.10, 257.11, 257.38, 257.40 and 257.41 to allow greater flexibility and align allowable uses of funds for at-risk programs, alternative programs and alternative schools, and programs for potential or returning dropouts and also incorporates changes included in 2015 Iowa Acts, House File 445, regarding the use of these funds. The amendments in Items 3 and 4 are consistent with these changes to the Iowa Code.

Item 5: 2015 Iowa Acts, House File 515, amends Iowa Code section 298.4 by adding payment of the costs of mediation and arbitration to the allowable uses of the management fund. This amendment provides for this additional allowable use.

Item 6: 2015 Iowa Acts, House File 646, amends language in Iowa Code section 298.3 to allow payment for repair of transportation equipment from the physical plant and equipment levy if the cost of the repair exceeds \$2,500. This amendment reflects this change.

Interested individuals may make written comments on the proposed amendments until 4:30 p.m. on November 3, 2015. Comments on the proposed amendments should be directed to Phil Wise, Administrative Rules Co-Coordinator, Iowa Department of Education, Second Floor, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa 50319-0146; telephone (515)281-4835; e-mail phil.wise@iowa.gov; or fax (515)242-5988.

A public hearing will be held on November 3, 2015, from 11 a.m. to 12 noon in the State Board Room, Second Floor, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Education and advise of specific needs by calling (515)281-5295.

An agencywide waiver provision is provided in 281—Chapter 4.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 256C.4, 257.10, 257.11, 257.38, 257.40 and 257.41 as amended by 2015 Iowa Acts, House File 658; section 298.3(1)“i” as amended by 2015 Iowa Acts, House File 646; and section 298.4 as amended by 2015 Iowa Acts, House File 515.

The following amendments are proposed.

ITEM 1. Amend rule 281—98.13(256C,257) as follows:

281—98.13(256C,257) Statewide voluntary four-year-old preschool program. The statewide voluntary four-year-old preschool program is a program for a specific category of students. Funding for the program is for the purpose of providing a high-quality early learning environment for four-year-old children whose families choose to access such programs.

98.13(1) *Appropriate uses of categorical funding.* Because the program is specifically instructional, expenditures generally are limited to the functions of instruction, student support services and staff support services, but ~~include expenditures up to 5 percent of the allocation can be used for actual documented costs of program administration, up to 5 percent of the allocation~~ outreach activities, and rent for facilities not owned by the school district.

98.13(2) *Pass-through funding to community-based providers.* The school district shall pass through to a community-based provider for each eligible pupil enrolled in the district's approved local program not less than 95 percent of the per-pupil amount.

a. The community-based provider may use up to ~~5~~ 10 percent of the 95 percent portion for documented allowable administrative and operational costs of providing the district's approved local program. The costs of outreach activities, rent for facilities not owned by the school district, and transportation for children participating in the preschool program are also permissive costs allowed as part of the 10 percent under this paragraph.

b. and c. No change.

98.13(3) *Inappropriate uses of categorical funding.* Inappropriate uses of the statewide voluntary four-year-old preschool program funding include, but are not limited to, indirect costs or use charges, capital expenditures other than equipment, facility acquisition not expressly allowed by the Iowa Code, construction, debt service, operational or maintenance costs or administrative costs that supplant or that exceed 5 percent, or any other expenditures not directly related to providing the statewide voluntary four-year-old preschool program or that supplant existing public funding for preschool programming.

ITEM 2. Amend rule 281—98.17(256B,257) as follows:

281—98.17(256B,257) Special education weighting. Special education weighting provides funding in addition to the student count that generates general purpose revenues for the purpose of providing additional instruction and services to an identified group of students. ~~Further information on the special education program is provided in 281—Chapter 41.~~

ITEM 3. Amend rule 281—98.18(257) as follows:

281—98.18(257) At-risk program, alternative program or alternative school, and potential or returning dropout prevention program formula supplementary weighting. ~~At-risk formula~~ Formula supplementary weighting provides funding in addition to the student count that generates general purpose revenues for the purpose of providing additional instruction and services to ~~an~~ students identified group of as at-risk, potential or returning dropouts, and secondary students attending an alternative program or alternative school ~~secondary students pursuant to Iowa Code section 257.11(4)“a.”~~ 257.11(4)“a” as amended by 2015 Iowa Acts, House File 658, section 37.

98.18(1) *Appropriate uses of categorical funding.* Appropriate uses of at-risk formula supplementary weighting funding include costs to develop or maintain programs for at-risk pupils² ~~programs pupils, which may include alternative school programs, and alternative schools for secondary students, and returning dropout and dropout prevention programs.~~ Appropriate uses include, but are not limited to:

a. Salary and benefits for the teacher(s) and guidance counselor(s) of identified students participating in the at-risk or alternative school approved programs when the teacher (or counselor) is dedicated to working providing services directly and exclusively with to the identified students beyond the services provided by the school district to students who are not identified as at risk or as potential or returning dropouts. If the teacher (or counselor) is part-time at-risk serving the program and part-time regular classroom teacher (or counselor), then the portion of time that is related to ~~the at-risk program~~

these programs may be charged to the program funding, but the portion of time that is related to the regular classroom shall not.

b. Professional development for all teachers and staff working with at-risk identified students and programs involving intervention strategies under an approved program or in an alternative school setting.

c. Research-based resources, materials, software, supplies, equipment, and purchased services that meet all of the following criteria:

- (1) Meet the needs of K through 12 identified students at-risk,
- (2) Are beyond those provided by the regular school program,
- (3) Are necessary to provide the services listed in the school district's approved at-risk or returning dropout and dropout prevention program plan, and
- (4) Will remain with the K through 12 at-risk program, alternative program or alternative school, or returning dropout and dropout prevention program.

d. Instructional costs necessary to address the behavior of a child during instructional time when those services are not otherwise provided to students who do not require special education and when the costs exceed the costs of instruction of pupils in a regular curriculum, the costs exceed the maximum tuition rate prescribed in Iowa Code section 282.24, the child has not been placed in a facility operated by the state, and all of the following apply:

- (1) The child does not require special education.
- (2) The child is not placed by the department of human services or a court in a residential or day treatment program where the treatment necessary to address the student's behavior was included in the contract with the placement agency.
- (3) The child is not placed in a hospital unit, health care facility, psychiatric medical institution for children or other treatment facility where the cost of treatment necessary to address the student's behavior is covered by insurance or Medicaid.
- (4) The board of directors of the district of residence has determined that the child is likely to inflict self-harm or likely to harm another student.

e. Up to 5 percent of the total amount that a school district receives as formula supplementary weighting pursuant to Iowa Code section 257.11(4) "a" as amended by 2015 Iowa Acts, House File 658, or as a modified supplemental amount received under Iowa Code section 257.41 as amended by 2015 Iowa Acts, House File 658, may be used in the budget year for purposes of providing districtwide or buildingwide at-risk and dropout prevention programming targeted to nonidentified students.

98.18(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the at-risk formula supplementary weighting program funding include, but are not limited to, indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation other than as allowed in subrule 98.18(1), administrative costs other than as allowed in subrule 98.18(1), or any other expenditures not directly related to providing the at-risk or alternative school approved program beyond the scope of the regular classroom program.

ITEM 4. Amend rule 281—98.21(257) as follows:

281—98.21(257) Returning At-risk program, alternative program or alternative school, and potential or returning dropout and dropout prevention program—modified supplemental amount. Returning dropout and dropout prevention programs are funded A modified supplemental amount is available through a school district-initiated request to the school budget review committee for a modified supplemental amount pursuant to Iowa Code sections section 257.38 to as amended by 2015 Iowa Acts, House File 658; section 257.39; and sections 257.40 and 257.41 as amended by 2015 Iowa Acts, House File 658. This amount must account for ~~not~~ no more than 75 percent of the school district's total at-risk program, alternative program or alternative school, and potential or returning dropout prevention budget. The school district must also provide a local match from the school district's regular program district cost, and the local match portion must be a minimum of 25 percent of the total dropout prevention program budget. In addition, school districts may receive donations and grants, and the school district may contribute more local school district resources toward the program. The

75 percent portion, ~~the local match, previous year carryforward,~~ and all donations and grants shall be accounted for as categorical funding.

98.21(1) Purpose of categorical funding. The purpose of the ~~dropout prevention funding~~ modified supplemental amount is to provide funding to meet the needs of identified students ~~at risk of dropping out of school beyond the instructional program and services provided by the regular school program~~ for costs in excess of the amount received under rule 281—98.18(257) pursuant to Iowa Code section 257.11(4) as amended by 2015 Iowa Acts, House File 658. The funding shall be used only for expenditures that are directly related to the ~~returning dropout and dropout prevention~~ district's approved program plan established pursuant to Iowa Code sections 257.38 through 257.41.

a. and b. No change.

98.21(2) Appropriate uses of categorical funding. Appropriate uses of the ~~returning dropout and dropout prevention program~~ funding for an approved program include, but are not limited to:

a. Salary and benefits for instructional staff, instructional support staff, and school-based youth services staff ~~who are working with~~ dedicated to providing services directly and exclusively to the identified students who are participating in dropout prevention programs, alternative programs, and alternative schools, in a traditional or alternative setting, if the staff person's time is dedicated to working with returning dropouts or students who are deemed, at any time during the school year, to be at risk of dropping out, in order to provide services the approved program beyond those which are the services provided by the school district to students who are not identified as at risk of becoming or as potential or returning dropouts. However, if the staff person works part-time with students who are participating in ~~returning dropout and dropout prevention programs, alternative programs, and alternative schools~~ the approved program and has another unrelated staff assignment, only the portion of the staff person's time that is related to the ~~returning dropout and dropout prevention program, alternative program, or alternative school program~~ may be charged to the program funding.

For purposes of this paragraph, an alternative setting may be necessary to provide for a program which is offered at a location off school grounds and which is intended to serve student needs by improving relationships and connections to school, decreasing truancy and tardiness, providing opportunities for course credit recovery, or helping students identified as at risk of ~~dropping out~~ to accelerate through multiple grade levels of achievement within a shortened time frame.

b. Professional development for all teachers and staff working with ~~at-risk~~ identified students and programs involving dropout prevention strategies under an approved program.

c. Research-based resources, materials, software, supplies, equipment, and purchased services that meet all of the following criteria:

(1) Meet the needs of K through grade 12 identified students ~~identified as at risk of dropping out and of returning dropouts,~~

(2) Are beyond those provided by the regular school program,

(3) Are necessary to provide the services listed in the school district's approved at-risk or returning dropout and dropout prevention program plan, and

(4) Will remain with the K through grade 12 at-risk program, alternative program or alternative school, or returning dropout and dropout prevention program.

d. Transportation provided by the school district exclusively to transport identified students to an alternative school or alternative program located in and provided by another Iowa school district.

e. The portion of the maximum tuition allowed by Iowa Code section 282.24 that corresponds to the portion exclusively providing direct additional instruction and services to an identified group of students above the costs of instruction of pupils in a regular curriculum.

f. School-level administrator assigned exclusively to an off-site alternative school or alternative program within the district. If the principal is administering the school or program part-time, ~~then~~ the portion of time that is exclusively and directly related to the program may be charged to the program funding, but the portion of time that is related to other purposes shall not.

g. ~~Up to 5 percent of the total budgeted amount received pursuant to 2012 Iowa Acts, Senate File 451, section 1(1), may be used for purposes of providing districtwide or buildingwide returning dropout and dropout prevention programming targeted to students who are not deemed at risk of dropping out.~~

g. Instructional costs necessary to address the behavior of a child during instructional time when those services are not otherwise provided to students who do not require special education and when the costs exceed the costs of instruction of pupils in a regular curriculum, the costs exceed the maximum tuition rate prescribed in Iowa Code section 282.24, the child has not been placed in a facility operated by the state, and all of the following apply:

(1) The child does not require special education.

(2) The child is not placed by the department of human services or a court in a residential or day treatment program where the treatment necessary to address the student's behavior was included in the contract with the placement agency.

(3) The child is not placed in a hospital unit, health care facility, psychiatric medical institution for children or other treatment facility where the cost of treatment necessary to address the student's behavior is covered by insurance or Medicaid.

(4) The board of directors of the district of residence has determined that the child is likely to inflict self-harm or likely to harm another student.

h. Up to 5 percent of the total amount that a school district receives as formula supplementary weighting pursuant to Iowa Code section 257.11(4) "a" as amended by 2015 Iowa Acts, House File 658, or as a modified supplemental amount received under Iowa Code section 257.41 may be used in the budget year for purposes of providing districtwide or buildingwide at-risk and dropout prevention programming targeted to nonidentified students.

98.21(3) *Inappropriate uses of categorical funding.* Inappropriate uses of the ~~returning dropout and dropout prevention~~ modified supplemental amount program funding include, but are not limited to, indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation other than as allowed in subrule 98.21(2), administrative costs other than those allowed in subrule 98.21(2), expenses related to the routine duties of a school nurse, general support for a school guidance counselor including any activities performed with ~~qualified identified~~ students that are also provided to all students, or any other expenditures not directly related to providing the ~~returning dropout and dropout prevention~~ approved program beyond the scope of the regular classroom.

ITEM 5. Adopt the following **new** paragraph **98.62(2)"i"**:

i. Payment of costs of mediation and arbitration, including but not limited to legal fees associated with such mediation or arbitration, but not including the results of the mediation or arbitration if those costs do not qualify under paragraph 98.62(2) "c" above.

ITEM 6. Amend paragraph **98.64(2)"1"** as follows:

l. Purchase of transportation equipment for transporting students and for repairing such transportation equipment when the cost of the repair exceeds \$2,500. "Repairing," for purposes of this paragraph, means restoring an existing item of transportation equipment to its original condition, as near as may be, after gradual obsolescence of physical and functional use due to wear and tear, corrosion and decay, or partial destruction, and includes maintenance that meets the definition of equipment and repair and the cost of which exceeds \$2,500.